

United States
Circuit Court of Appeals
For the Ninth Circuit.

TOKU SAKI,

Appellant,

vs.

THE UNITED STATES OF AMERICA,

Appellee.

Transcript of Record.

Upon Appeal from the United States District Court
for the Territory of Hawaii.

Filed

JUL 1 - 1916

F. D. Monckton,
Clerk

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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Names and Addresses of Attorneys.

FOR PETITIONER: TOKU SAKAI,

WILLIAM T. RAWLINS, Esq., #306-307 Bank
of Hawaii Building, Honolulu, Hawaii.

GEORGE A. DAVIS, Esq., #200 Bank of
Hawaii Building, Honolulu, Hawaii.

FOR RESPONDENT: RICHARD L. HALSEY,
U. S. Immigration Inspector in Charge at
the Port of Honolulu.

HORACE W. VAUGHAN, Esq., United States
District Attorney, Honolulu, Hawaii. [1*]

*In the United States District Court in and for the
District and Territory of Hawaii.*

No. 94.

In the Matter of the Application of TOKU SAKAI
for a Writ of Habeas Corpus.

**Order Extending Time to Transmit Record on
Appeal.**

Now on this 22d day of April, A. D. 1916, it appearing from the representations of the clerk of this Court, that it is impracticable for said clerk to prepare and transmit to the clerk of the Ninth Circuit Court of Appeals, at San Francisco, California, the transcript of the record on assignment of error in the above-entitled cause, within the time limited therefor by the citation heretofore issued in this cause, it is ordered that the time within which the clerk of this court shall prepare and transmit said

*Page-number appearing at foot of page of original certified Record.

transcript of the record on assignment of error in this cause, together with the said assignment of errors and all papers required by the praecipe of plaintiff in error herein, to the clerk of the Ninth Circuit Court of Appeals, be, and the same is hereby extended to May 15, A. D. 1916.

Dated, Honolulu, T. H., April 22d, 1916.

CHAS. F. CLEMONS,

Judge, U. S. District Court.

Due service of the above order, and receipt of a copy thereof are hereby admitted this 22d day of April, A. D. 1916.

GEO. A. DAVIS,

Attorney for Petitioner.

HORACE W. VAUGHAN,

U. S. Atty. [2]

[Endorsed]: #94. United States District Court, Territory of Hawaii. In the Matter of the Application of Toku Sakai for a Writ of Habeas Corpus. Order Extending Time to Transmit Record on Appeal. Filed Apr. 22, 1916. George R. Clark, Clerk. By Ray B. Rietow, Deputy Clerk.

*In the United States District Court for the Territory
of Hawaii.*

No. 94.

In the Matter of the Application of TOKU SAKAI
for a Writ of Habeas Corpus.

Clerk's Statement.

TIME OF COMMENCEMENT OF SUIT.

April 13, 1914: Verified Petition for writ of Habeas Corpus filed and writ issued to the U. S. Marshal for the District of Hawaii.

NAMES OF ORIGINAL PARTIES.

Petitioner: TOKU SAKAI.

Respondent: Richard L. Halsey, U. S. Inspector of Immigration in Charge at the Port of Honolulu.

DATES OF THE FILING OF THE PLEADINGS.

April 13, 1914: Petition, Order and Writ.

May 28, 1914: Return of Richard L. Halsey.

March 3, 1916: Amended Return of Richard L. Halsey.

SERVICE OF PROCESS.

April 13, 1914: Writ issued and delivered to the United States Marshal for the District of Hawaii. Said Writ with the United States Marshal's Return thereon filed on return, April 14, 1914, the said return reading as follows, to wit: The within Petition, Order and Writ of Habeas Corpus were received by me on the 13th day of April, A. D. 1914, and are returned as executed in Honolulu, on the 13th day of April, A. D. 1914, by hand, upon Richard L. Halsey, United States Immigration Inspector in Charge at the Port of Honolulu, by exhibiting to him the original and handing to and leaving with him a certified copy of the within Petition, Order and Writ of Habeas Corpus, E. R. Hendry, U. S. Marshal. By (Sgd.) H. H. Holt, Chief Office Deputy. Dated Honolulu, T. H., April 14, 1914." [3]

HEARINGS.

April 14, 1914: Hearing on return to writ and order releasing petitioner on bond.

March 4, 1916: Proceedings at decision, discharging writ, order allowing applicant 15 days to perfect appeal and order releasing said applicant on bond pending appeal.

March 16, 1916: Hearing in re extension of time to perfect appeal and order allowing same.

The above hearings were had before the Honorable SANFORD B. DOLE and the Honorable CHARLES F. CLEMONS.

DECISION.

March 4, 1916: Decision in cause, by Clemons, J.

March 6, 1916: Decree filed and entered.

PETITION FOR APPEAL.

March 23, 1916: Petition for Appeal and order allowing same filed.

United States of America,
District of Hawaii,—ss.

I, George R. Clark, Clerk of the United States District Court for the District of Hawaii, do hereby certify the foregoing to be a full, true and correct statement showing the time of commencement of the above-entitled suit; the names of the original parties thereto; the several dates when the respective pleadings were filed; and account of the proceedings showing the service of the writ herein and the time when the judgment herein was rendered and the Judge rendering same, in the matter of the application of Toku Sakai for a Writ of Habeas Cor-

pus, Number 94, in the United States District Court for the District of Hawaii.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court this 29th day of April, A. D. 1916.

[Seal] GEORGE R. CLARK,
Clerk, U. S. District Court, Territory of
Hawaii. [4]

*In the District Court of the United States, in and for
the District and Territory of Hawaii.*

In the Matter of the Petition of TOKU SAKAI for a Writ of Habeas Corpus, to be Directed to RICHARD L. HALSEY, United States Inspector of Immigration at the Port of Honolulu, Commanding and Directing Him to have and Produce the Body of the Petitioner, TOKU SAKAI.

Petition for a Writ of Habeas Corpus.

To the Honorable the District Court of the United States in and for the District and Territory of Hawaii, and to the Honorable the Presiding Judges thereof:

Your petitioner, Toku Sakai, respectively shows to this Honorable Court and alleges and charges as follows:

I.

That she has been a resident of the Territory of Hawaii for a period of about eleven years prior to the date of this petition, and that she is not an alien or alien resident within the meaning of the laws of the United States hereinafter referred to.

II.

That your petitioner is imprisoned and restrained of her liberty by Richard L. Halsey, Esq., Inspector in Charge of [5] the United States Immigration Station at the Port of Honolulu, without authority of law and contrary to the provisions of the Constitution of the United States of America and the rules and regulations adopted by the United States Department of Labor and by the Bureau of Immigration.

III.

That the cause and pretense of such imprisonment and restraint, according to the knowledge and belief of your petitioner, is that the Secretary of Labor of the United States of America has by his warrant of deportation ordered your petitioner to be deported from the Port of Honolulu to the Empire of Japan and that such imprisonment and restraint is for the purpose of such deportation; that the alleged reason, as shown by and contained in said warrant for such deportation is, as your petitioner is informed and believes, that your petitioner at said Honolulu did practice prostitution, contrary to the provisions of the Acts of Congress in such case made and provided; that your petitioner has no copy of the warrant of deportation herein-before referred to which she can attach hereto and make a part hereof; that said imprisonment and restraint is illegal, unlawful, contrary to the provisions of the Constitution of the United States, the Immigration Laws of the United States, and the Rules and Regulations of the Bureau of Immigrat-

tion, and in that behalf your petitioner alleges and says that the hearing had before the Special Board of Inquiry was not a full and fair and *bona fide* hearing and the findings of said Board were based upon only the semblance of a hearing; and the said petitioner was not represented by counsel at said hearing, and that she is unable to read and write the English language or to understand the same and that the said warrant of arrest was illegally [6] and unlawfully issued and is not based upon any valid finding supported by evidence of any Board of Inquiry or officer of the Department of Labor, Bureau of Immigration authorized or empowered to hold such hearings.

And your petitioner prays that the said warrant of arrest and all the evidence given in support thereof may be produced upon the hearing of this petition, the same being now in the custody of the said Richard L. Halsey; and this petitioner prays that the same may be made a part of this paragraph of this her petition.

IV.

That your petitioner did not have a fair and *bona fide* hearing before any Board of Special Inquiry or an officer of the Department of Labor, Bureau of Immigration authorized and empowered to conduct such hearing; and there is no evidence that your petitioner practiced prostitution, was or is a prostitute in the District of Hawaii at the times alleged in the complaint and warrant of deportation, and such warrant was issued without authority of law and contrary to the rules and regu-

lations of the United States Department of Labor, Bureau of Immigration; and the said warrant of arrest is therefore illegal and void, and the said Richard L. Halsey now holds and detains your petitioner and intends to deport her to the Empire of Japan by a steamship leaving Honolulu this day.

WHEREFORE, your petitioner prays that a writ of habeas corpus be forthwith issued by this Honorable Court, commanding the said Richard L. Halsey, United States Inspector in Charge of Immigration at the Port of Honolulu aforesaid, to have and produce the body of the said Toku Sakai, your petitioner before this Honorable Court at the court-room in [7] the Model Block, in the City of Honolulu, City and County of Honolulu, Territory of Hawaii, on the 14th day of April, 1914, at 10 o'clock A. M., in order that the alleged cause of imprisonment and restraint and the legality and constitutionality thereof may be inquired into, and that in case said imprisonment and restraint are unlawful and in violation of the United States Constitution or contrary to the rules and regulations of the Bureau of Immigration, that your petitioner may be discharged therefrom.

Dated this 13th day of April, A. D. 1914.

(Sgd.) TOKU SAKAI,

United States of America,
Territory of Hawaii,
City and County of Honolulu,—ss.

Toku Sakai, being first duly sworn, deposes and says: That she is the petitioner in the foregoing petition; that the same has been read and explained

to her; that she knows the contents thereof and that the same is true, except as to those matters therein alleged upon information and belief, and as to those matters so alleged, she believes them to be true.

(Sgd.)

TOKU SAKAI.

Subscribed and sworn to before me this 13th day of April, A. D. 1914.

(Notarial Seal) (Sgd.) J. M. CAMARA,
Notary Public, First Judicial Circuit, Territory of Hawaii.

(Sgd.) WILLIAM T. RAWLINS,
Attorney for Petitioner.

Let writ issue as prayed.

13 April, 1914.

(Sgd.) CHAS. F. CLEMONS,
Judge. [8]

*In the District Court of the United States in and for
the District and Territory of Hawaii.*

In the Matter of the Petition of TOKU SAKAI for
a Writ of Habeas Corpus.

Writ of Habeas Corpus.

The President of the United States of America: To
RICHARD L. HALSEY, United States Immigration Inspector in Charge at the Port of Honolulu, District and Territory of Hawaii, and His Deputy:

You and each of you are hereby commanded that you have and produce the body of Toku Sakai, by you unlawfully detained and imprisoned as is alleged and charged in the petition for this writ now

on file in this Honorable Court, before the District Court of the United States in and for the District of Hawaii at the Courtroom of said Court in the Model Block so called, in Honolulu, at 10 o'clock in the forenoon of the 14th day of April, A. D. 1913, together with the cause of the imprisonment and detention of her, the said Toku Sakai, to undergo and receive what our said Court shall consider and determine concerning her in this behalf.

And we do further command the Marshal of the District of Hawaii to forthwith serve this writ of habeas corpus and that he have then and there this writ.

WITNESS the Honorable SANFORD B. DOLE, Judge of the District Court of the United States in and for the District and Territory of Hawaii, this 13th day of April, A. D. 1913.

[Seal] A. E. MURPHY,
Clerk of the District Court of the United States in
and for the District and Territory of Hawaii.

By (Sgd.) F. L. Davis,
Deputy Clerk. [9]

United States Marshal's Office.
Marshal's Return.

The within petition, order and writ of habeas corpus were received by me on the 13th day of April A. D. 1914, and are returned as executed in Honolulu, on the 13th day of April A. D. 1914, by hand, upon Richard L. Halsey, United States Immigration Inspector in Charge at the port of Honolulu, by exhibiting to him the original and handing to and leaving with him a certified copy of the within peti-

tion, order and writ of habeas corpus.

Dated, Honolulu, T. H., April 14, 1914.

E. R. HENDRY,

U. S. Marshal.

By (Sgd.) H. H. Holt,

Chief Office Deputy. [10]

[Endorsed]: No. 94. (Title of Court and Cause.)
Petition for Writ of Habeas Corpus. Filed April
13th, 1914. A. E. Murphy, Clerk. By (Sgd.) F. L.
Davis, Deputy Clerk. [11]

Order in re Release of Petitioner, etc.

From the Minutes of the United States District
Court, Vol. 9, Tuesday, April 14, 1914.
(DOLE, Presiding Judge.)

(Title of Court and Cause.)

On this day came the above applicant in person
and with her counsel, Mr. W. T. Rawlins and Mr.
George A. Davis, and also came Mr. J. W. Thompson,
Assistant United States Attorney, on behalf of
the respondent herein, and this cause was called for
hearing on respondent's return to the Writ herein.
Thereupon, on motion of Mr. Thompson and consent
of counsel for the applicant, it was by the Court
ordered that this cause be continued until called up
for hearing, and that the said applicant be released
upon furnishing a bond herein in the sum of \$250.00.

[12]

*In the District Court of the United States, in and for
the Territory and District of Hawaii.*

In the Matter of the Application of TOKU SAKAI,
for a Writ of Habeas Corpus.

Recognizance.

The United States of America,
Territory of Hawaii,—ss.

BE IT REMEMBERED, that on the 14 day of April, A. D. 1914, before me, F. L. Davis, Deputy Clerk of the District Court of the United States, within and for the Territory and District of Hawaii, duly appointed by said Court and duly qualified and acting as such deputy clerk, personally came Toku Sakai, as principal, and Patrick Silva and Isaac L. Cockett, as sureties, and jointly and severally acknowledged themselves to owe to the United States of America the sum of TWO HUNDRED AND FIFTY DOLLARS, to be levied on their goods and chattels, lands and tenements, if default be made in the condition following, to wit:

THE CONDITION OF THIS RECOGNIZANCE is such, that whereas, heretofore, and on, to wit, the 14th day of April, A. D. 1914, a writ of habeas corpus was duly issued out of said Court citing Richard L. Halsey, Esquire, United States Immigration Inspector in Charge at the Port of Honolulu, to have and produce the body of said Toku Sakai before said Court on Saturday, the 10th day of May, at the hour of ten o'clock in the forenoon of said day, and from

day to day and time to time thereafter when required to appear.

WHEREAS, in obedience to said Writ, the said Richard L. Halsey, duly produce before said Court the said Toku Sakai, and, [13]

WHEREAS, the Court has entertained and granted a motion of the said Toku Sakai for release on recognizance pending the final hearing and determination of said writ of habeas corpus, and the said recognizance has been fixed at the sum of Two Hundred and Fifty Dollars by the Honorable Sanford B. Dole, Judge of said Court,—

NOW, THEREFORE, if the said Toku Sakai shall duly appear in the District Court of the United States, in and for the District and Territory of Hawaii whenever thereunto ordered by a Judge thereof until the final determination of said cause in said United States District Court, or in case an appeal shall be taken to the United States Circuit Court of Appeals of the Ninth Circuit until final decision in said Court of Appeals, then this obligation shall be void; otherwise it shall remain in full force and effect.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 14th day of April, A. D. 1914.

Signed in Japanese: TOKU SAKAI.

Witness to signature in Japanese:

(Sgd.) S. ADACHI.

(Sgd.) PATRICK SILVA.

(Sgd.) ISAAC L. COCKETT.

Taken and acknowledged before me the 14th day of April, A. D. 1914.

[Seal] (Sgd.) F. L. DAVIS,
Deputy Clerk, U. S. District Court, Territory of Hawaii.

United States of America,
Territory of Hawaii,—ss.

Patrick Silva and Isaac L. Cockett, parties to the above bond, being duly sworn, do depose and say, each for himself, that he is worth the sum of Two Hundred and Fifty Dollars over and above his just debts, liabilities and exemptions, and that his property is situated in said Territory and subject to execution.

(Sgd.) PATRICK SILVA.

(Sgd.) ISAAC L. COCKETT. [14]

Subscribed in my presence and sworn to before me this 14th day of April, A. D. 1914.

(Sgd.) F. L. DAVIS, (Seal)
Deputy Clerk, U. S. District Court, Territory of Hawaii.

Approved:

(Sgd.) JEFF McCARN,
United States Attorney.

Approved:

(Sgd.) S. B. DOLE,
Judge.

[Endorsed]: No. 94. (Title of Court and Cause.)
Recognizance. Filed Apr. 14, 1914. A. E. Murphy,
Clerk. By (Sgd.) F. L. Davis, Deputy. [15]

*In the United States District Court for the Territory
of Hawaii.*

In the Matter of the Petition of TOKU SAKAI, for
a Writ of Habeas Corpus.

Return of Richard L. Halsey to Order to Show Cause.

To the Honorable SANFORD B. DOLE and the
Honorable CHARLES F. CLEMONS, Judges
of the United States District Court for the Ter-
ritory of Hawaii.

Comes now Richard L. Halsey, Inspector in Charge
of the Immigration Station of the United States at
the Port of Honolulu, and in obedience to the order
to show cause does hereby certify and say in return
to said order in the above styled cause as follows:

1. He admits:

(a) That he is the Inspector in Charge of the
United States Immigration Station at the Port of
Honolulu, Territory and District of Hawaii.

(b) That the petitioner is a Japanese alien resi-
dent of and within the District of Hawaii, and has
been for a long period of time, but she does not
know how long.

(c) That she has been arrested upon a warrant
issued by the Secretary of Labor on the 17th day
of October, 1913.

(d) That a warrant of Deportation was issued
against her by the Secretary of Labor on the 25th
day of March, 1914. [16]

(e) That she is held and detained by operation
of said warrants.

2. He denies:

- (a) That petitioner is imprisoned and restrained illegally or without authority of law.
- (b) That her imprisonment and restraint is contrary to the provisions of the Constitution of the United States.
- (c) That her imprisonment and restraint is contrary to the Rules and Regulations of the Bureau of Immigration.

3. All copies of warrants, orders, letters, cablegrams, etc., filed in this cause are hereby made a part and parcel of this answer to show cause and reference thereto is specifically made. The same clearly showing by her own testimony that she did practice prostitution for a period of at least five years, also showing that she is an alien resident within the limits of the District of Hawaii, bringing the case clearly within the prohibited class of aliens as set out and described in the Act of Congress regulating Immigration to the United States, passed February 20, 1, 1907, and as amended and approved March 26, 1910, in Section 3 of said Act.

4. The warrant of arrest was regular and was based upon ample and sufficient evidence. And after her own confession of having practiced prostitution within the District for a period of five years, the warrant of deportation was issued by the Secretary of Labor, all of which was regular, ample and sufficient.

[17]

5. That by reason of the premises, and the further fact that the conclusion of the Secretary of Labor is made final by law, this Court has not any jurisdiction

tion to make further inquiry into the facts, and that such decision was reached and arrived at after a fair hearing and a decision on the merits of the cause, and was based upon the evidence and the law applicable to the case.

WHEREFORE, your respondent prays the petition in this cause be dismissed and that the said TOKU SAKAI be further remanded to the custody of your respondent to be dealt with as the law directs.

Dated May 28th, 1914.

(Sgd.) RICHARD L. HALSEY,

Inspector in Charge.

(Sgd.) J. WESLEY THOMPSON,

Assistant U. S. Attorney. [18]

[Endorsed]: No. 94. (Title of Court and Cause.)
Return of Richard L. Halsey. Filed May 28, 1914.
A. E. Murphy, Clerk. By (Sgd.) Wm. L. Rosa,
Deputy Clerk. [19]

Order Continuing Hearing to January 14, 1916.

From the Minutes of the United States District Court, Vol. 10, Tuesday, January 4, 1916.

(CLEMONS, Presiding Judge.)

(Title of Court and Cause.)

On this day came Mr. George A. Davis, counsel for the above applicant, and also came Mr. Horace W. Vaughan, United States Attorney, on behalf of the respondent herein, and this cause was called for disposition. Thereupon it was by the Court ordered that this cause be continued to January 14, 1916, at 10 o'clock A. M., for hearing. [20]

Order Continuing Hearing to January 28, 1916.

From the Minutes of the United States District Court, Vol. 10, Friday, January 14, 1916.

(CLEMONS, Presiding Judge.)

(Title of Court and Cause.)

On this day came the above applicant in person and with her counsel, Mr. George A. Davis and Mr. W. T. Rawlins, and also came Mr. Horace W. Vaughan, United States Attorney, on behalf of the respondent herein and this cause was called for hearing. Thereupon on motion of Mr. Vaughan and consent of counsel for the applicant, it was by the Court ordered that this cause be continued to January 28, 1916, at 10 o'clock A. M., for hearing. [21]

Order Continuing Hearing to February 28, 1916.

From the Minutes of the United States District Court, Vol. 10, Friday, January 28, 1916.

(CLEMONS, Presiding Judge.)

(Title of Court and Cause.)

On this day came the above applicant in person and with her counsel, Mr. W. T. Rawlins, and also came Mr. Horace W. Vaughan, United States Attorney, on behalf of the respondent herein, and this cause was called for hearing. Thereupon it was by the Court ordered that this cause be continued to February 28, 1916, at 10 o'clock A. M., for hearing. [22]

Order Continuing Hearing to March 1, 1916.

From the Minutes of the United States District Court, Vol. 10, Monday, February 28, 1916.
(CLEMONS, Presiding Judge.)

(Title of Court and Cause.)

On this day came the above applicant in person and with her counsel, Mr. W. T. Rawlins and Mr. George A. Davis, and also came Mr. Horace W. Vaughan, United States Attorney, on behalf of the respondent herein and this cause was called for hearing. Thereupon it was by the Court ordered that this cause be continued to March 1, 1916, at 2 o'clock, P. M., for hearing. [23]

*In the United States District Court for the Territory
of Hawaii.*

In the Matter of the Application of TOKU SAKAI,
for Writ of Habeas Corpus.

Amended Return to Writ of Habeas Corpus.

Comes Richard L. Halsey, the respondent, by Horace W. Vaughan, United States Attorney, and by leave of the Court files as a part of the record in this case, the record of the proceedings had before the Immigration officials at Honolulu, by virtue of which the applicant in this case was ordered deported, and asks that the same be considered as a part of the return of the respondent herein, and as a part of the record in this case.

The respondent shows to the Court that on Sep-

tember 29, 1913, Honorable J. B. Densmore, Acting Secretary of Commerce and Labor, sent the cablegram, a copy of which is attached hereto as a part of the record aforesaid, commanding the arrest of Toku among others, the said name Toku Takai, being intended for the applicant herein, and that by virtue of the said order the applicant herein was arrested and on October 2d, 1913, was given a hearing before Inspector Harry B. Brown, and at said hearing the applicant, being sworn, admitted under oath that she had been practicing prostitution for about one year, and that she had first started the occupation of prostitution about five years prior thereto. That the testimony [24] of the applicant is attached hereto as a part of the hearing. That thereafter, on October 17th, 1913, Louis F. Post, Acting Secretary of Commerce and Labor, sent the cablegram order of arrest, a copy of which is attached hereto as a part of the record aforesaid, commanding the arrest of Toku Sakai, the applicant herein, and thereafter upon the evidence theretofore taken, upon the admission theretofore made by the applicant herein, on October 17th, 1913, the said Louis F. Post issued the order of deportation, a copy of which is hereto attached.

That afterwards, on March 28, 1914, Honorable J. B. Densmore, Acting Secretary of Commerce and Labor, acting upon the evidence taken at the hearing aforesaid before Harry B. Brown, issued the order, a copy of which is hereto attached as a part of the record aforesaid, commanding the deportation of the applicant.

The respondent says that from the evidence before the Immigration officials, duly had in accordance with law, the applicant herein was adjudged to be an alien prostitute and had been found practicing prostitution subsequent to her entry into the United States and that she had admitted that she had been practicing prostitution subsequent to her entry.

WHEREFORE, respondent prays that the writ be discharged and that applicant be remanded to the custody of respondent to be dealt with in accordance with law.

(Sgd.) RICHARD L. HALSEY,
Inspector in Charge.

(Sgd.) HORACE W. VAUGHAN,
United States Attorney.

Horace W. Vaughan, being first duly sworn according to law, deposes and says that the foregoing facts are true.

(Sgd.) HORACE W. VAUGHAN.

Subscribed in my presence and sworn to before me this 3d day of March, 1916.

[Seal]

(Sgd.) F. L. DAVIS,
Clerk. [25]

**Letter, April 10, 1914, Inspector in Charge to
Sheldon.**

No. 4280/90.

April 10th, 1914.

Mr. Wm. J. Sheldon,
Attorney at Law,
Merchant Street, Honolulu, T. H.

Sir:

This morning Warrant of Deportation for TOKU SAKAI was received, and you are directed to have her surrender herself at this office Monday, April 13th, 1914, at 10:00 A. M., prepared for deportation.

Respectfully,

Inspector in Charge.

HBB/JLM. [26]

Form 562.

(COPY)

WARRANT—DEPORTATION OF ALIEN.

UNITED STATES OF AMERICA,
DEPARTMENT OF COMMERCE AND LABOR,
Washington.

No. 53678/465.

To RICHARD L. HALSEY, Inspector in Charge,
Honolulu, T. H.

Whereas, from proofs submitted to me, after due hearing before Immigrant Inspector Harry B. Brown, held at Honolulu, T. H., I have become satisfied that the alien TOKU SAKAI, who landed at the port of Honolulu, T. H., has been found in the United

States in violation of the Act of Congress approved February 20, 1907, amended by the Act approved March 26, 1910, to wit:

That the said alien is a prostitute and has been found practicing prostitution subsequent to her entry into the United States, and may be deported in accordance therewith:

I, J. B. Densmore, Acting Secretary of Commerce and Labor, by virtue of the power and authority vested in me by the laws of the United States, do hereby command you to return the said alien to Japan, the country whence she came, at the expense of the appropriation "Expenses of Regulating Immigration, 1914." You are directed to purchase transportation for the alien from Honolulu, T. H., to her home in Japan at the lowest scheduled rate obtainable from the Pacific Mail Steamship Company, payable from the above mentioned appropriation.

For so doing this shall be your sufficient warrant.

Witness my hand and seal this 28th day of March, 1914.

(Signed) J. B. DENSMORE,

Acting Secretary of Commerce and Labor.

CEB.

11-2721. [27]

Letter, March 16, 1914, Halsey to Secretary of Labor.

(COPY)

No. 4280/90.

March 16th, 1914.

The Honorable,

The Secretary of Labor,

Washington, D. C. (Thru Commissioner-
General of Immigration).

There is transmitted herewith the testimony in the case of TOKU SAKAI, who was arrested and given a hearing as directed in Warrant of Arrest No. 53678/465.

(Signed) RICHARD L. HALSEY,
Inspector in Charge.

HBB/JLM. [28]

In re:

TOKU SAKAI,

No. 4280/90.

DEPARTMENT OF LABOR,
UNITED STATES IMMIGRATION SERVICE.

Port of Honolulu, T. H.,
March 16th, 1914.

Remarks by Examining Inspector.

From the testimony of this woman it appears that she is an alien and that she has been practicing prostitution for a livelihood.

It therefore appears that she is a proper person for whom a warrant of deportation should issue.

Immigrant Inspector.

HBB/JLM. [29].

TOKU SAKAI.

#4280/90.

DEPARTMENT OF LABOR,
UNITED STATES IMMIGRATION SERVICE.

Port of Honolulu, T. H.,

March 12th, 1914.

MEMORANDUM.

On December 22d, 1913, attorney W. J. Sheldon stated that he desired time to file a brief in this case. He was this date communicated with and states that he does not desire to file a brief or do anything further in this case.

(Signed) HARRY B. BROWN,
Immigrant Inspector.

HBB/JLM. [30]

Honolulu, T. H.,
December 22d, 1913.

In re: #4280/90,

TOKU SAKAI:

Attorney Wm. J. Sheldon appears this date and states that he does not desire to offer any further evidence or testimony in this case, but desires time to file a brief.

Immigrant Inspector.

HBB/JLM. [31]

DEPARTMENT OF COMMERCE AND LABOR,
 IMMIGRATION SERVICE.
 Office of Inspector in Charge.
 Honolulu, Hawaii.

December 18th, 1913.

Mr. Wm. J. Sheldon,
 Merchant Street,
 Honolulu, T. H.

As attorney in the case of *Toku Sakai*, you are hereby notified that a further hearing in this case will be had on Monday, December 22d, at 9:30 A. M., at which time any evidence pertinent to the case that you submit will be considered.

Immigrant Inspector. [32]

(COPY)

WARRANT—ARREST OF ALIEN.

Form 561.

UNITED STATES OF AMERICA.

DEPARTMENT OF COMMERCE AND LABOR,
 WASHINGTON.

No. 53,678/459-460-1-2-3-4-5.

To RICHARD L. HALSEY, Inspector in Charge,
 Honolulu, T. H.

WHEREAS, from evidence submitted to me, it appears that the aliens CHING LUM, SIU JOY, CHUN PIN, WONG YUEN, KWANJIRO HARUTA, HATSUME HARUTA, and TOKU SAKAI, who landed at some unknown port, on the — day of —, have been found in the United States in violation of the Act of Congress approved

February 20, 1907, amended by the Act approved March 26, 1910, for the following among other reasons:

That the said Ching Lum, Siu Joy, Chun Pin, Wong Yuen, and Kwanjiro Haruta are unlawfully within the United States in that they have been found receiving, sharing in, or deriving benefit from the earnings of a prostitute, or prostitutes; and that the said Hatsume Haruta and Toku Sakai are prostitutes and have been found practicing prostitution subsequent to their entry into the United States,

I, LOUIS F. POST, Acting Secretary of Commerce and Labor, by virtue of the power and authority vested in me by the laws of the United States, do hereby command you to take into custody the said aliens and grant them a hearing to enable them to show cause why they should not be deported in conformity with law.

The expenses of detention hereunder, if necessary, are authorized payable from the appropriation "Expenses of Regulating Immigration, 1914." Pending further proceedings, the aliens may be released from custody upon furnishing satisfactory bond in the sum of \$1000 each.

For so doing, this shall be your sufficient warrant.

Witness my hand and seal this 17 day of October, 1913.

(Sgd.) LOUIS F. POST,

Acting Secretary of Commerce and Labor.

Mc.

11-2719. [33]

**Exhibit "A"—Cablegram, Post to Immigration,
Honolulu.**

(COPY)
CABLEGRAM.

"Via Commercial Pacific."

Received at 2.5PM BDN.

OCT. 17, 1913.

37 USG WASHINGTON DC 25
Immigration Honolulu.

ARROW CHING LUM SIU JOY CHUN PIN
WONG YUEN KWANJIRO HARUTA RECEIPTOR
HATSUME HARUTA AND TOKU SAKAI
PROGNOSIS.

LOUIS Y. POST,
Acting Secretary.

Code:—

ARROW: Arrest following-named alien(s) and bring before yourself for hearing, forwarding record of proceedings to the Department.

RECEIPTOR: Alien found receiving, sharing in, or deriving benefit from a part or the whole of the earnings of a prostitute.

PROGNOSIS: Alien found practicing prostitution after entry.

Exhibit "A." [34]

Testimony of Toku Sakai Before Immigration Inspector.

Case No. 4280/90.

UNITED STATES IMMIGRATION SERVICE.

Honolulu, T. H., October 2, 1913.

Examining Inspector—HARRY B. BROWN.

Interpreter—CHOMEI TAJIMA.

Stenographer—CHARLES W. DURKEE, Jr.

Case of Toku Sakai—Prostitute.

Telegraphic warrant of arrest attached as “Exhibit A.”

Alien sworn, testified:

Q. What is your name? A. Toku Sakai.

Q. How old are you? A. Twenty-eight.

Q. Born where?

A. Hiroshima City, Hiroshima Ken.

Q. When did you first come to Hawaii?

A. Meiji 37.

Q. What boat?

A. I forgot the name of the boat.

Q. What is the name of your husband?

A. Segawa Gonjiro.

Q. Where is he now?

A. It is seven years since I separate from him, may be in the United States or may be in Hawaii.

Q. Have you been practicing prostitution?

A. Yes.

Q. How long?

A. About one year and I did before that time.

Q. Well when did you first start in the occupation?

A. About five years ago.

(Alien signed her name in the note-book.)

October 7, 1913.

Interpreter—TOMIZO KATSUNUMA.

Q. What is your name?

A. Toku Sakaye (Sakai).

Q. Do you want a lawyer? A. Yes.

Certified correct.

(Sgd.) CHARLES W. DURKEE, Jr.,

Stenographer. [35]

Cablegram, Acting Secretary to Immigration Service, Honolulu.

CABLEGRAM.

“Via Commercial Pacific.”

Received at 11.32 PM. E.

24 USG WASHINGTON DC 97.

SEP. 29, 1913.

Immigration Service Honolulu.

ARROW KIMI MATSU TAJIU HISAYE
 MISUNO ALIAS MASUYE HARUYO CHIYO
 WARI TAKA OR TAKE KUMA OR KURA YO-
 SHI TANE UME NAKANO CHIYE RIU YU-
 KINO OR YUKI TOKU TAKI ITO SATSU
 TERU CHISE MURA ASANO KIMI OR
 KAMI NATSU MIYA TAMANO KAME TOME
 TSUTSNO TAKEYO CHIYONO OR CHIYE
 MASU (WIFE OR PARAMOUR OR HIRATA)
 MASU (WIFE OR PARAMOUR OF TSUJI)
 KIKUYE TAMA YOSHI IGARASHI KAMI
 MATSUYE TAKI KIYO CHIYO UTA FUSANO

NARITOMI TOYO TOYOBUKU MASA KEIAN
HIDE TAWARA TERU OGATA MISAC MORI-
AMA AND HATSU PROGNOSIS RELY TEN
EACH.

J. B. DENSMORE,
Acting Secretary.

(Copy.)

Code:—

ARROW: Arrest following-named alien(s) and bring before yourself for hearing, forwarding record of proceedings to the Department.

PROGNOSIS: Alien found practicing prostitution after entry.

RELAY: Authority granted for release from custody under bond in the sum of _____ hundred dollars. [36]

[Endorsed]: No. 94. (Title of Court and Cause.)
Amended Return. Filed Mar. 3, 1916. (Sgd.) F. L. Davis, Clerk. [37]

Order Continuing Cause to March 4, 1916.

From the Minutes of the United States District Court, Vol. 10, Wednesday, March 1, 1916.
(CLEMONS, Judge Presiding.)

(Title of Court and Cause.)

On this day came Mr. George A. Davis and Mr. W. T. Rawlins, counsel on behalf of the above applicant, and also came Mr. Horace W. Vaughan, United States Attorney, on behalf of the respondent herein and this cause was called for disposition. There-

upon it was by the Court ordered that said cause be continued to March 4, 1916, at 10 o'clock A. M., for disposition. [38]

Final Hearing, Order Discharging Writ of Habeas Corpus and Order Releasing Petitioner on Bond Pending Appeal.

PROCEEDINGS AT DECISION.

From the Minutes of the United States District Court, Vol. 10, Saturday, March 4, 1916.

(CLEMONS, Presiding Judge.)

(Title of Court and Cause.)

On this day came the above applicant in person and with her counsel, Mr. George A. Davis and Mr. W. T. Rawlins, and also came Mr. Horace W. Vaughan, United States Attorney, on behalf of the respondent herein and this cause was called for hearing. Thereupon and after due hearing, the Court ordered that the Writ herein be discharged, to which ruling counsel for the applicant entered an exception and gave notice of appeal, whereupon it was further ordered by the Court that said applicant be released upon the bond heretofore given and that she be allowed fifteen days to perfect her appeal. [39]

Proceedings Had March 4, 1916.

No. 94.

In the United States District Court, in and for the Territory of Hawaii.

Before the Honorable CHARLES F. CLEMONS,
Judge of the said Court.

In the Matter of the Application of TOKU SAKAI
for a Writ of Habeas Corpus.

APPEARANCES FOR PETITIONER:

WILLIAM T. RAWLINS, Esq., and GEORGE
A. DAVIS, Esq., for Respondent.

HORACE W. VAUGHAN, Esq., U. S. District
Attorney.

TRANSCRIPT.

Saturday, March 4, 1916.

Mr. DAVIS.—If your Honor please, we are willing to rely on the record. This case is so plain that it requires no authorities except the matters I will call to your Honor's attention. I refer to the Immigration Authorities as that tribunal. It requires no authorities in this case, and I refer to the statutory tribunal at the Immigration Station, eliminating all personal references to names or anything like that so that there can be no misunderstanding. Now, Section 25 of the Act of March 4, 1913, and amendments—from the only statutory power, and your Honor must admit it is entirely statutory—if your Honor follows me, the power is entirely statutory—

The COURT.—Do you intend to argue that?

Mr. DAVIS.—No, but I want to state it, I am not going to argue it, I don't need to with a court as strong as this is. Section 25 provides that a Board of Special Inquiry consisting [40] of three members have alone jurisdiction vested in it to deport an alien from the Territory of Hawaii or any other part of the United States. I call your Honor's attention to page 15 of this Act, "such Boards . . . shall be deported." There was no Board of Special Inquiry, and we rely on this record—but there is the examining inspector Harry B. Brown, an interpreter and a stenographer, that's all. The statute requires a Board which shall consist of three members, and that alone shall have jurisdiction under this statute to order deportation. Now, then, the following proceedings took place, they are here on this record (reads record) and upon the strength of this they send a telegram recommending deportation of this woman among a number of others. The telegram is attached hereto, and upon the strength of that they issued a warrant for the arrest and deportation of this woman, acting absolutely without jurisdiction because—there it is, that is all, absolutely no jurisdiction; there is no evidence. This is a case that can have but one ending, because there was no jurisdiction and no tribunal in accordance with the statute, and there are no authorities required on that. There is nothing to show in this record where this woman was practicing prostitution. In their hurry they slipped up, they haven't even complied with their own rules. Even if they had according to their own rules they slipped up on this. I call

your Honor's attention to the immigration rules here,—upon the receipt of the warrant of arrest under the heading of Aliens, subsection 4 of rule 22, page 37 . . . “why they should not be deported.” This warrant was directed to Richard L. Halsey, and this woman was not even taken before Halsey but was taken before Harry B. Brown—

The COURT.—What is the subsection of this?

Mr. DAVIS.—Subdivision 1, your Honor . . . and grant a [41] hearing, and so forth. “It is directed to Richard L. Halsey, Inspector in Charge at Honolulu, and to nobody else. There is no other inspector at all about it, and the rule says . . . shall be taken before the person therein described.” The jurisdictional question is vital. This woman was not taken before a Board of Special Inquiry as required by the Immigration Laws and she had no hearing before such Board, and these proceedings are void, and this return is insufficient, and this writ of habeas corpus for once must be allowed to go, and I submit the case to this Honorable Court in the firm belief that upon this record this writ must go and that this is one of the cases where the Immigration authorities have not complied with the laws under which they are acting and which your Honor—because that is the sole authority, there is none other, and I submit this case.

The COURT.—All it says is Immigration, Honolulu.

Mr. RAWLINS.—That is Richard L. Halsey.

Mr. VAUGHAN.—If your Honor please, I don't

wish to take up the time of this Court, but this record is right. There is no necessity for the convening of a Board of Special Inquiry except where it is to be determined whether or not an arriving alien is endeavoring to enter—rather shall be permitted to enter. A Board of Special Inquiry in that case is called by Section 25. Section 25 regulates Boards of Special Inquiry with reference to arriving aliens, and that such Board of Special Inquiry shall be appointed by the Commissioner of Immigration at the various ports of arrival as may be necessary for the prompt determination of all cases of immigrants detained at such ports under the provision of law, which Board shall consist of three members who shall be selected, and so forth.

Mr. DAVIS.—We specifically controvert that proposition.

Mr. VAUGHAN.—Section 3 of this Act provides, amongst other things, “any alien who may be found an inmate of or connected [42] with houses of prostitution deported in the manner provided by Sections 20 and 21 of this Act.” Now, let’s see what these Acts provide. Sections 20 and 21, not 25, “that any alien who shall enter the United States in violation of the law and Section 21, “that in case the Secretary of Labor shall be satisfied shall be punished and so forth.” I will read rule 22 which is prescribed by the Secretary of Labor to make regulations for the enforcement of this Act, “the officers shall make thorough investigation citing Sections 20, 21, 18, 35, 36, 2, 3, and Executive Order of March 14, 1914, “all such cases by whom-

soever discovered application follow by mail, and so forth," and "upon the receipt of warrant of arrest the alien shall be taken before the person or persons therein described as to whether warrant for deportation shall issue."

Mr. DAVIS.—Yes, but your Honor—

Mr. VAUGHAN.—Mr. Davis, just let me talk, if you please.

The COURT.—Mr. Davis, I will not stand this any longer.

Mr. VAUGHAN.—I will read the warrant of arrest which is attached here. This is directed to the Immigration Service at Honolulu, to the Immigration service in Honolulu. The warrant of arrest is not direct to Mr. Halsey but to the Immigration Service here at Honolulu, and signed by the Acting Secretary. She was given a hearing, if the Court please, before one of the examining inspectors which is in accordance with the rules and regulations of the department because this proceeding was under sections 3, 20 and 21, and not under 25. Absolutely the only irregularity about the warrant of arrest was the fact that it spelled the applicant's name as Takai instead of Sakai. The warrant of arrest is for the name given in the warrant—Taku Takai instead of Taku Sakai. We allege that was the party meant. Now, then, [43] after the exclusion of this alien on October 2d before the examining inspector Harry B. Brown the case of Taku Sakai was taken up; the alien was sworn and she testified: "When did you first come to Honolulu?" "Meiji 37." She admits in this hearing that she had been practicing prosti-

tution and did so for one year prior to that time. It was for the immigration officials to determine whether or not they had proof that she had been practicing prostitution. It was for the Immigration officials whether or not the testimony showed that she had been practicing prostitution a year before this hearing. Is there any evidence here from which they could conclude that she had been practicing prostitution for a year previous to that time? Her admission is that she had been practicing prostitution for a year, and had come to Hawaii and had been in Hawaii since Meiji 37.

The COURT.—I will stop the argument on that. Now, about the necessity of having it heard before a Board.

Mr. VAUGHAN.—If your Honor please, they undertake to act under Section 3, and get evidence to present to the Secretary of Labor. The examining inspector makes no findings, the Secretary of Labor makes the finding in these matters.

The COURT.—I was trying to find a decision, one of Mr. Cathcart's cases.

Mr. VAUGHAN.—After the examination by Inspector Brown—he is acting not for the purpose of determining the matter himself but for the purpose of gathering evidence upon which the Secretary of Labor may act.

The COURT.—Is there any necessity for a vote of the Board?

Mr. VAUGHAN.—No. I can cite your Honor a half a dozen or more cases in the Federal Reporter

where the hearing was held before the Inspector.

[44]

The COURT.—This is Bouve on Aliens, 626-627.

Mr. DAVIS.—I wish to read from 208 Fed. Reporter, page 12. It shows a want of good faith, your Honor.

The COURT.—Where is the want of good faith, Mr. Davis?

Mr. DAVIS.—The want of good faith is that the hearing didn't take place before the person designated in the warrant, and no higher evidence of want of good faith could be shown. They haven't complied with their own rules which have the force of the statute.

The COURT.—Hold on, don't read that any more. Just a minute, if you are going to read something—

Mr. DAVIS.—I am reading this *bona fide* hearing; your Honor don't care to hear it at all, maybe. There is the case. The proof should be the best that can be obtained. They made it, we didn't.

The COURT.—Aren't they to be the judges of that, Mr. Davis?

Mr. DAVIS.—No, not if it isn't *bona fide*, but taken in connection with the fact that the hearing was not as designated by law.

The COURT.—The Secretary of Labor didn't care who heard the testimony so long as he was a reliable man, and the presumption is that an officer of the Government is a reliable man, and he didn't care who took the testimony.

Mr. DAVIS.—Yes, but the Secretary had no right

to issue such a warrant, your Honor, because the rules say so, "when he issued the warrant of arrest then the alien must be taken before, and so forth and so forth," and before he could issue that warrant of deportation these rules had to be complied with, and I don't care what the Secretary of Labor —whether he didn't care before whom the hearing was or not, but we care. The first hearing wasn't a hearing before the officer designated in the [45] warrant and the proof wasn't the best to be obtained. Nowhere was Harry B. Brown mentioned, and a hearing without a finding is not a hearing.

The COURT.—I will stop you. You claim this evidence was taken before the wrong person, namely, Harry B. Brown. This evidence before Brown on October 2, 1913, and the warrant of arrest was October 17, 1913. This is only preliminary evidence. Now then, the law reads, "Upon the receipt should not be deported." Then here is the letter to the attorney and he had his opportunity to show cause why she should not be deported.

Mr. DAVIS.—Was that hearing held?

The COURT.—He evidently didn't desire it, Mr. Sheldon didn't.

Mr. DAVIS.—If your Honor please, that doesn't make any difference, they have got to have a hearing. Never mind about Sheldon.

The COURT.—On December 22, 1913, Mr. Sheldon states he doesn't desire to offer any further evidence or testimony in this case but desires time to file a brief. Then on March 12, 1913, nearly three months afterwards, he states he doesn't desire to

file a brief or do anything further in the case. So, Mr. Davis, all of your argument falls to the ground, because that evidence she gave was a hearing before the warrant issued at all. The record also shows that she was given an opportunity to show cause.

Mr. DAVIS.—She never waived her hearing. I take the position that there never was a hearing, and she never waived any hearing.

The COURT.—I agree with you there, but there was an offer of a hearing.

Mr. RAWLINS.—Here is the cablegram by way of the Commercial Pacific, received at 11:32 P. M. addressed Immigration [46] Service, Honolulu, arrow Toku Takai and nowhere in that telegram is there any warrant to arrest Toku Sakai,—

The COURT.—I will stop you there, because after that direction issued she was examined and knew the warrant was for her arrest.

Mr. RAWLINS.—What authority do the immigration people have to arrest this woman? There was no direction to them to arrest this woman, and they are guilty of false imprisonment when they take this woman in without authority.

The COURT.—Granted they were, but the law says that any person who admits being a prostitute shall be deported.

Mr. RAWLINS.—And on the 2d day of October, if your Honor please, Harry Brown has this purported hearing based on what?

The COURT.—In that hearing, whether lawful or unlawful, she admitted she was a prostitute, and we

don't care where she admitted it,—

Mr. DAVIS.—Nothing of the kind.

The COURT.—And the record also shows that on December 18th Mr. Sheldon was written a letter saying he had this opportunity to present any further evidence, but he didn't embrace it.

Mr. DAVIS.—But the woman isn't bound by it.

The COURT.—I don't think any further discussion will be proper, Mr. Davis, I am going to decide this right now.

Mr. DAVIS.—Then give us a chance to appeal to the United States Circuit Court of Appeals.

The COURT.—You may.

Mr. DAVIS.—With all deference to your Honor, give us a chance, and give us reasonable time.

The COURT.—Please sit down, Mr. Davis. The writ is discharged and the prisoner remanded.

Mr. DAVIS.—To which ruling and decision I respectfully except. I ask your Honor to make a reasonable bond. [47]

Mr. RAWLINS.—She is living a decent, respectable life, your Honor.

The COURT.—I will call on Mr. Farmer.

Mr. FARMER.—I don't know just now.

Mr. VAUGHAN.—My information, your Honor, from Mr. Halsey is that she is not misbehaving.

The COURT.—She may be released on the same bond as before.

Mr. DAVIS.—I ask for \$250.00.

The COURT.—With the understanding that her appeal is perfected within fifteen days. The bond is \$250.00. If the appeal is not perfected in fifteen

days the ruling will be made absolute. This bond is sufficient.

I hereby certify that the foregoing is a full, true and correct transcript of my shorthand notes in the above entitled case.

(Sgd.) H. F. NIETERT.

Honolulu, H. T., March 13, 1916.

[Endorsed]: No. 94. (Title of Court and Cause.) Transcript. Filed Mar. 23, 1916. George R. Clark, Clerk. By (Sgd.) Wm. L. Rosa, Deputy Clerk.

[48]

In the United States District Court for the Territory of Hawaii.

No. 94.

In the Matter of the Application of TOKU SAKAI for a Writ of Habeas Corpus.

March 4, 1916.

[49]

Opinion.

This case, in which the writ of habeas corpus is issued, has been submitted on the record, including not only the record of proceedings before the immigration officers and before the Secretary of Labor, but also the verified petition of the alien and the verified return of the respondent, the immigration inspector in charge at the port of Honolulu and his verified amended return having thereto annexed the transcript of record of proceedings in the whole matter of the alien's arrest as a deportable alien and of the hearing and consideration pursuant to the warrant authorizing arrest.

The petitioner's counsel claim that she did not, as alleged by the Government, admit having practiced prostitution in the United States, but that in her examination there was nothing showing where she had so practiced. But her testimony was that she had "been practicing prostitution" "about one year and before that time" (Transcript 2), and her petition (page 1, par. I) shows she had been a resident of this Territory for eleven years before her arrest. The consequent inference is that she was in the Territory at the time of her unlawful act, and that inference is an additional reason why the finding of the Secretary of Labor should not be disturbed. See *In the matter of Chiyo Kajikami* (No. 92), decided Feb. 21, 1916; *In the matter of Eitaro Yamada* (No. 97), decided Feb. 16, 1916.

The fact that the alien is named "Toku Taki" in the preliminary telegraphic order for her arrest, is immaterial. In subsequent proceedings and orders her name was given, as here given, "Toku Sakai." And, to meet an argued contention, it does not matter that the prejudicial admission which the alien made was made in an investigation had pursuant to that order in which she was differently named. This alien was the person who made the admission and it stands against her, and [50] the immigration department rightly took advantage of it, whatever her name might be; her identity, not her name, is the important thing.

The ground of want of counsel and the other grounds of objection to the deportation proceedings,

are insufficient to justify the petitioner's release from custody.

Let the writ be discharged and the petitioner remanded to the custody of the respondent.

(Sgd.) CHAS. F. CLEMONS,
Judge of the United States District Court for the
Territory of Hawaii.

[Endorsed]: No. 94. (Title of Court and Cause.)
Decision. Filed Mar. 4, 1916. F. L. Davis, Clerk.
By (Sgd.) Ray B. Rietow, Deputy Clerk. [51]

*In the United States District Court for the Territory
of Hawaii.*

No. 94.

In the Matter of the Application of TOKU SAKAI
for a Writ of Habeas Corpus.

Decree.

This case having been heard and submitted to the Court for determination, and the Court having rendered its decision unfavorably to the petitioner,—

Now, therefore, it is hereby ORDERED, ADJUDGED and DECREED that the writ of habeas corpus heretofore issued out of this court in this case be, and it is hereby, discharged and the petitioner remanded to the custody of the respondent inspector in charge of the United States immigration station at the port of Honolulu.

Done at Honolulu this 4th day of March, A. D. 1916.

(Sgd.) CHAS. F. CLEMONS,
Judge of the United States District Court for the
Territory of Hawaii.

[Endorsed]: No. 94. (Title of Court and Cause.) Decree. Entered in J. D. Book #2, folio 699. Filed Mar. 6, 1916. F. L. Davis, Clerk. By (Sgd.) Wm. L. Rosa, Deputy Clerk. [52]

Order Extending Time to March 25, 1916, to Perfect Appeal.

From the Minutes of the United States District Court, Vol. 10, Thursday, March 16, 1916.
(CLEMONS, Presiding Judge.)

(Title of Court and Cause.)

On this day came Mr. George A. Davis and Mr. W. T. Rawlins, counsel for the above applicant and also came Mr. Horace W. Vaughan, United States Attorney, counsel on behalf of the respondent herein, and this cause was called in re extension of time to perfect appeal. Thereupon on motion of Mr. Rawlins and consent of Mr. Vaughan, it was by the Court ordered that the time previously set for March 19, 1916, be extended to March 25, 1916.
[53]

In the District Court of the United States in and for the District and Territory of Hawaii.

No. 94.

In the Matter of the Application of TOKU SAKAI for a Writ of Habeas Corpus.

On Appeal to the Circuit Court of Appeals for the Ninth Judicial Circuit of the United States.

Bond on Appeal.

KNOW ALL MEN BY THESE PRESENTS: That we, TOKU SAKAI, petitioner appellant in the above-entitled cause, as principal, and S. Adachi and I. Takano, of Honolulu, City and County of Honolulu, in the Territory of Hawaii, Real Estate Agents, as sureties, are held and firmly bound unto Richard L. Halsey, United States Immigration Inspector in Charge, in the sum of **FIVE HUNDRED DOLLARS** (\$500.00), lawful money of the United States, to be paid to the aforesaid Richard L. Halsey, United States Immigration Inspector in Charge, his respective executors, successors, administrators and assigns, to which payment well and truly to be made, we bind ourselves and each of us, our and each of our respective heirs, administrators, executors and assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated at Honolulu, City and County of Honolulu, in the Territory of Hawaii, this 23d day of March, A. D. 1916.

WHEREAS, the above-bounded TOKU SAKAI petitioner-appellant has appealed to the United States Circuit Court of Appeals for the Ninth Judicial Circuit of the United States, from the final order and judgment dismissing the writ of [54] habeas corpus issued in this proceedings, and remanding the petitioner-appellant into the custody of Richard L. Halsey, United States Immigration Inspector in Charge at the Port of Honolulu, in the District and Territory of Hawaii, made and entered

up by and in said court on the 23d day of March, A. D. 1916, in the above entitled proceedings, by the above-entitled court, and praying that said judgment and order and each of them may be reversed;

NOW, THEREFORE, the condition of this obligation is such that if the above-named TOKU SAKAI petitioner-appellant, aforesaid, shall prosecute her appeal to effect and shall answer all damages and costs to which the said Richard L. Halsey, United States Immigration Inspector in Charge, may be entitled, if she fail to make her appeal good, then this obligation shall be void, otherwise the same shall remain in full force and effect.

IN WITNESS WHEREOF, the aforesaid principal and the aforesaid sureties have hereunto set their hands and seals at Honolulu, City and County of Honolulu, District and Territory of Hawaii, this 23d day of March, A. D. 1916.

Signed in Japanese:
TOKU SAKAI, (Seal)
Principal.

Witness:

(Sgd.) WM. L. ROSA.

(Sgd.) S. ADACHI, (Seal)

(Sgd.) I. TAKANO, (Seal)

Sureties.

The foregoing bond is approved as to form, amount and sufficiency of sureties.

Dated, Honolulu, Hawaii, March 23d, 1916.

(Sgd.) CHAS. F. CLEMONS,
Judge, United States District Court, Territory of
Hawaii. [55]

United States of America,
Territory of Hawaii,
City and County of Honolulu,—ss.

S. Adachi and I. Takano, being severally sworn, say; the said S. Adachi, that he resides at Honolulu, in the Territory of Hawaii, and is worth the sum of more than **ONE THOUSAND DOLLARS** in property, not by law exempt from execution, over and above all his debts and liabilities; and the said I. Takano, that he resides in Honolulu, in the Territory of Hawaii, and is worth the sum of more than **ONE THOUSAND DOLLARS**, in property not by law exempt from execution, over and above all his debts and liabilities.

(Sgd.) S. ADACHI.

(Sgd.) I. TAKANO.

Subscribed and sworn to by the said S. Adachi and I. Takano, before me this 23d day of March, A. D. 1916.

(Seal) (Sgd.) RAY B. RIETOW,
Deputy Clerk, U. S. District Court, Territory of Hawaii.

[Endorsed]: No. 94. (Title of Court and Cause.)
Bond on Appeal. Filed Mar. 23, 1916. George R. Clark, Clerk. By (Sgd.) Ray B. Rietow, Deputy Clerk. [56]

*In the District Court of the United States in and for
the Territory of Hawaii.*

OCTOBER, A. D. 1916, TERM.

NO. 94.

In the Matter of the Application of TOKU SAKI
for a Writ of Habeas Corpus.**Petition for Allowance of Appeal and for Appeal.**To the Honorable CHARLES F. CLEMONS Judge
of the District Court of the United States for
the Territory of Hawaii.

TOKU SAKI, the petitioner herein, by her attorneys, George A. Davis, William T. Rawlins and Charles S. Davis, conceiving herself aggrieved by the final order and decree made and entered up in this proceeding and cause on the 4th day of March, A. D. 1916, does hereby appeal from the said final order and decree to the Circuit Court of Appeals for the Ninth Judicial Circuit of the United States, and files herewith her assignment of errors intended to be urged and relied upon upon appeal, and she prays that her appeal may be allowed and that a transcript of the record of all proceedings and papers upon which said final order and decree was made, duly authenticated may be sent to the Circuit Court of Appeals for the Ninth Judicial Circuit of the United States.

Dated this 23d day of March, A. D. 1916.

(Sgd.) GEO. A. DAVIS,

(Sgd.) WILLIAM T. RAWLINS,

(Sgd.) CHARLES S. DAVIS,

Attorneys for Petitioner Toku Saki Appellant.

Received a copy of the above petition.

(Sgd.) HORACE W. VAUGHAN,

United States District Attorney. [57]

[Endorsed]: No. 94. (Title of Court and Cause.)
Petition for Allowance of Appeal. Filed Mar. 23,
1916. George Clark, Clerk. By (Sgd.) Wm. L.
Rosa, Deputy Clerk. [58]

*In the District Court of the United States in and for
the Territory of Hawaii.*

OCTOBER, A. D. 1916, TERM.

NO. 94.

In the Matter of the Application of TOKU SAKI
for a Writ of Habeas Corpus.

Order Allowing Appeal.

Upon the application and motion of George A. Davis, one of the counsel for the above-named petitioner,—

It is hereby ordered that the petition for appeal heretofore filed herein by the petitioner, Toku Saki, be and the same is hereby granted and allowed and that an appeal to the United States Circuit Court of Appeals for the Ninth Judicial Circuit from the final order and decree heretofore made, to wit, on the 4th day of March, A. D. 1916, filed and entered herein be and the same is hereby allowed and that a transcript of the record of all proceedings and papers upon which said final order and decree was made duly certified and authenticated be transmitted under the hand and seal of the clerk of this court to the United

States Circuit Court of Appeals for the Ninth Judicial Circuit of the United States at San Francisco in the State of California.

Dated this 23d day of March, A. D. 1916.

(Sgd.) CHAS. F. CLEMONS,
Judge of the District Court of the United States for
the Territory of Hawaii.

[Endorsed]: No. 94. (Title of Court and Cause.)
Order Allowing Appeal. Filed Mar. 23, 1916.
George R. Clark, Clerk. By (Sgd.) Wm. L. Rosa,
Deputy Clerk. [59]

*In the District Court of the United States in and for
the Territory of Hawaii.*

OCTOBER, A. D. 1916, TERM.

NO. 94.

In the Matter of the Application of TOKU SAKI
for a Writ of Habeas Corpus.

Assignment of Errors.

Toku Saki, the petitioner in the above-entitled cause and proceeding and appellant herein, having petitioned for an order from said court permitting her to appeal from the final order and decree of the District Court of the United States for the Territory of Hawaii entered up herein on the 4th day of March, A. D. 1916, wherein it was ordered, adjudged and decreed that the writ of habeas corpus issued herein out of this court be discharged and the petitioner remanded to the custody of the respondent therein inspector-in-charge of the United States Immigration

Station at the Port of Honolulu, now makes and files with this her petition the following assignment of errors herein, upon which she will apply for a reversal of said order and final decree dismissing and discharging said writ of habeas corpus and remanding said petitioner to the custody of Richard L. Halsey, United States Immigration Inspector-in-Charge at the Port of Honolulu, District and Territory of Hawaii, and which said errors and each and every one of them are to the great detriment, injury and prejudice of the said petitioner and in violation of the rights conferred upon her by law; and she says that [60] in the record and proceedings in the above-entitled cause and proceeding, upon the hearing and determination thereof in the District Court of the United States for the Territory of Hawaii, there is manifest error in this, to wit:

1. That the findings, final order and decree made and entered by the District Court of the United States in and for the Territory of Hawaii and by the Honorable Charles F. Clemons, the Judge presiding in said court, and made and entered herein on the 4th day of March, A. D. 1916, was and is erroneous and contrary to law and not warranted by the record, evidence and proceedings, and was and is in violation of the Constitutional rights of this petitioner, and appellant.

2. The Court erred in holding and deciding that the writ of habeas corpus issued herein should be dismissed and discharged and the petitioner remanded to the custody of the respondent inspector-in-charge of the United States Immigration Station at the

Port of Honolulu for the purpose of being deported to Japan, because said petitioner was not taken before the person described in the warrant of arrest issued on the 17th day of October, A. D. 1913, in violation of Rule 22 of the Immigration Rules of November the 15th, 1911, Subdivision IV, which said rules were adopted by and in full force, and under which the Department of Commerce and Labor of the United States of America and the Department of Immigration were acting and from which and by which Richard L. Halsey, inspector-in-charge of the immigration station of the United States at the port of Honolulu, claimed to hold and have the custody of the body of this petitioner, and which said rules were made and established by the Commissioner General of Immigration of the United States under the provisions of Section 22 of the Act of Congress of February 20th, 1907, as amended by the Acts of March 26, 1910, and March 4, 1913, entitled "An Act to Regulate the Immigration of Aliens into the United States." [61]

3. The Court erred in making said final order and decree remanding this petitioner to the custody of said inspector-in-charge and dismissing said writ of habeas corpus because it nowhere appears that this petitioner was allowed to inspect the warrant of arrest and all the evidence upon which it was issued, nor was your petitioner apprised at any time before the hearing had before Examining Inspector Harry B. Brown, which said hearing was held in violation of Subsection IV of Rule 22 of said Immigration Rules, that she could be represented by counsel, and

it does not appear that this petitioner was required to state then and there whether she desired counsel or waived her right thereto, and that it nowhere appears on said record of said hearing before said Inspector Harry B. Brown that she made any reply as to whether she desired counsel or not or whether she waived her right thereto, and no such reply is entered on the record as required by said Rule 22 Subdivision 4 (B) Immigration Rules.

4. That the petitioner was entitled to be discharged from custody by the said United States District Court because the record discloses that she did not have a fair and *bona fide* hearing before Richard L. Halsey, inspector-in-charge at the port of Honolulu, as required by said Rule 22, Subdivision 4 (a), the said Richard L. Halsey being the person designated and described in the warrant of arrest issued against your petitioner on the 17th of October, 1913, by Louis F. Post, acting secretary of commerce and labor.

5. That your petitioner was entitled to be discharged by said United States District Court because the record fails to show that she had any lawful, fair and *bona fide* hearing before any person or persons authorized and empowered by the said Immigration Act of February 20th, 1907, as amended by the Acts of March the 26th, 1910, and March the 4th, 1913, and the immigration rules authorized by said act and under which said law and rules the said Richard L. Halsey, said inspector-in-charge of the United States Immigration [62] Station at the port of Honolulu, claimed to hold the body of the petitioner herein.

6. That it appears from the record that the petitioner was entitled to be discharged by the United States District Court on the 4th of March, 1916, at said final hearing, because the said petitioner was not legally held by the said respondent, Richard L. Halsey, inspector-in-charge of the United States Immigration Station at the port of Honolulu, or of any other person or official of the United States Immigration claiming to hold and imprison her under the authority of the immigration laws and rules of the United States and under the act hereinbefore referred to.

7. That the record shows that this petitioner was entitled to her discharge by the District Court of the United States at the final hearing on the 4th of March, A. D. 1916, because no opportunity was afforded her to have the assistance of counsel for her defense at the hearing before Examining Inspector Harry B. Brown on the 2d of October, 1913, and the 7th of October, 1913, in violation of and contrary to the provision of art. VI of the articles in addition to an Amendment of the Constitution of the United States.

8. That it appears from the record that the petitioner was deprived of her liberty by said Richard L. Halsey, the inspector-in-charge at the port of Honolulu, without due process of law and in violation of Article 14 of the Articles in Addition to and Amendment of the Constitution of the United States of America and the District Court of the United States erred in dismissing and discharging said writ

of habeas corpus on the 4th day of March, A. D. 1916.

9. The petitioner was entitled to be discharged from custody under said writ of habeas corpus because it appears from the face of said record upon which the respondent relied that the petitioner [63] was illegally imprisoned and restrained of her liberty by Richard L. Halsey, inspector-in-charge of the United States immigration station at the port of Honolulu, in violation of law, without authority of law and because there was no evidence offered or given at the hearing of October the 2d, 1913, and October the 7th, 1913, before Examining Inspector Harry B. Brown, or any person authorized to hold any hearing, that this petitioner had practiced prostitution in the United States or in the Territory of Hawaii within the meaning of Section 3 of the Act of February 20th, 1907, as amended by the acts of March the 26th, 1910, and March the 4th, 1913, entitled "An Act to Regulate the Immigration of Aliens into the United States," and under the provisions of which said section and act the respondent claimed to hold said petitioner, and under which the warrant of deportation dated the 28th day of March, 1914, was issued and said petitioner was illegally in custody.

10. That the evidence taken at said hearings of October 7, 1913, and October 2d, 1913, had before Examining Inspector Harry B. Brown in violation of Rule 22 of the Immigration Rules, does not show when, where and with whom and under what circum-

stances, nor that said petitioner had ever practiced prostitution in the United States, and said petitioner was entitled to be discharged by said United States District Court at the final hearing on March the 4th, 1916, and said United States District Judge erred in dismissing said writ of habeas corpus and refusing to discharge said petitioner.

11. That the warrant of deportation of this petitioner was unlawfully and improperly issued, because there was and is no evidence disclosed by the record establishing or tending to establish that the petitioner had violated any of the section of the act to regulate the immigration of aliens into the United States, and was unlawfully in custody of the respondent Richard L. Halsey, and said United States District Court erred in not discharging her from custody. [64]

12. That the return and amended return of Richard L. Halsey, inspector-in-charge of the immigration station at the port of Honolulu, filed in said court and the amended return filed in said court to the writ of habeas corpus issued herein is wholly insufficient in law and is not supported by the evidence given at said hearing before Examining Inspector Harry B. Brown as appears from the record, and the Court erred in dismissing said writ of habeas corpus and remanding the petitioner to the custody of the respondent inspector-in-charge and in refusing to discharge her, the said petitioner.

13. That there was no evidence adduced or given at said hearing before Inspector Harry B. Brown nor at any hearing before the United States District

Court to support the allegations of the return and amended return to the writ of habeas corpus issued herein of the respondent Richard L. Halsey.

14. That the said return and amended return of Richard L. Halsey to the writ of habeas corpus issued herein was and is wholly insufficient, and the order and decree dismissing said writ of habeas corpus was and is erroneous.

15. That the record discloses that at said hearings before said Harry B. Brown the petitioner Toku Saki was the only witness examined, and that she was sworn and compelled to testify and to be a witness against herself in violation of Article V of the Constitutional Amendments.

16. That the record discloses that the petitioner was not informed of the nature and cause of the accusation against her nor had she the assistance of counsel, nor was she given the right to obtain witnesses in her favor nor to have process for obtaining such witnesses issued, and was sworn by said Examining Inspector Harry B. Brown and compelled to be a witness against herself in violation of the articles in addition to and amendment of the Constitution of the United States of America, to wit, Articles V and VI. [65]

17. That said proceedings before said Examining Inspector Harry B. Brown were illegal and invalid and in violation of law and of the Act of Congress of February 20th, 1907, as amended by the Acts of March 26, 1910, and March the 4th, 1913, and the warrant of deportation and the warrant of arrest

were illegally issued, and the petitioner was unlawfully arrested under said warrant and unlawfully held in custody under said warrant, and said United States District Court erred in refusing to discharge said petitioner and in dismissing said writ of habeas corpus.

18. The United States District Court and the presiding Judge thereof erred in other particulars appearing upon the record in this cause and proceeding.

AND WHEREAS, by the law of the land the said writ of habeas corpus should not have been dismissed and the said petitioner therein should have been discharged from custody and not remanded to the custody of the respondent Richard L. Halsey, inspector-in-charge of the immigration station of the United States at the port of Honolulu.

AND NOW the said Toku Saki prays that the final order and decree of March 4th, A. D. 1916, hereinbefore referred to, may be reversed, annulled and held for naught, and that she, the said petitioner, may be discharged from custody and may have such other and further relief as may be lawful in the premises.

Dated at Honolulu the 23d day of March, A. D. 1916.

(Sgd.) GEO. A. DAVIS,

(Sgd.) WILLIAM T. RAWLINS,

(Sgd.) CHARLES S. DAVIS,

Attorneys for Petitioner Appellant Toku Saki.

Due service and receipt of a copy of the within

assignment of errors is hereby admitted this 23d day of March, A. D. 1916.

(Sgd.) HORACE W. VAUGHAN,
Acting United States District Attorney. [66]

[Endorsed]: No. 94. (Title of Court and Cause.)
Assignment of Errors. Filed Mar. 23, 1916. George
R. Clark, Clerk. By (Sgd.) Wm. L. Rosa, Deputy
Clerk. [67].

*In the District Court of the United States in and for
the Territory of Hawaii.*

October, A. D. 1916 Term.

No. 94.

In the Matter of the Application of TOKU SAKI
for a Writ of Habeas Corpus.

Citation on Appeal.

United States of America—ss.

The President of the United States, to the United States of America and to Richard L. Halsey, Inspector-in-Charge of the Immigration Station of the United States at the Port of Honolulu,
Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Judicial Circuit to be holden at the city of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal filed in the clerk's office of the United States District Court for the Territory of Hawaii, wherein Toku Saki is appellant

and the United States of America and you, and said Richard L. Halsey, Inspector-in-Charge of the Immigration Station of the United States at the Port of Honolulu, are appellees, to show cause, if any there be, why the final order and decree in said appeal mentioned should not be corrected and why speedy justice should not be done to the parties in that behalf.

WITNESS the Honorable EDWARD DOUGLAS WHITE, Chief Justice of the Supreme Court of the United States, this 23d day of March, in the year of our Lord one thousand nine hundred and sixteen, and the one hundred and fortieth year of the Independence of the United States of America.

CHAS. F. CLEMONS,
Judge of the District Court of the United States for
the Territory of Hawaii. [68]

[Seal] Attest: GEORGE R. CLARK,
Clerk of the United States District Court for the
Territory of Hawaii.

Due service of the within citation admitted this
23d day of March, A. D. 1916.

HORACE VAUGHAN,
Acting United States District Attorney. [69]

[Endorsed]: In the District Court of the United States for the Territory of Hawaii. In the Matter of the Application of Toku Saki for a Writ of Habeas Corpus. Citation on Appeal. G. A. Davis, W. T. Rawlins and Charles S. Davis, Counsel for Appellant. Bank of Hawaii Building. Honolulu, T. H. Mar. 23, 1916. George R. Clark, Clerk. By Wm. L. Rosa, Deputy Clerk.

*In the District Court of the United States in and for
the Territory of Hawaii.*

No. 94.

In the Matter of the Application of TOKU SAKI
for a Writ of Habeas Corpus.

Praecipe for Transcript.

To the Clerk of the Above-entitled Court.

You will please prepare transcript of the record in this cause and proceeding to be filed in the office of the clerk of the United States Circuit Court of Appeals for the Ninth Judicial Circuit, and include in said transcript the following pleas, proceedings and papers on file, to wit:

1. The petition for a writ of habeas corpus.
2. The writ of habeas corpus and return of service.
3. The return of Richard L. Halsey, inspector-in-charge of the United States Immigration Station at the Port of Honolulu.
4. The amended return of Richard L. Halsey, inspector-in-charge of the Immigration Station of the United States at the Port of Honolulu, and certain papers and documents and letters attached to said amended return.
5. The warrant of deportation of the alien dated the 28th day of March, A. D. 1914, and signed by J. B. Densmore, Acting Secretary of Commerce and Labor.
6. The warrant of arrest of said alien dated the 17th day of October, A. D. 1913, and signed by Louis

F. Post, Acting Secretary of Commerce and Labor.
[70]

7. The transcript of the proceedings in the case of Toku Saki had and taken before examining inspector, Harry D. Brown, on October 2d, 1913 and October 7, 1913, and certified as correct by Charles W. Durkee, Jr., stenographer, and that certain cablegram in cipher, dated September 29th, 1913, and signed by J. B. Densmore, acting secretary.

8. The recognizance filed herein.

9. The final decree and judgment filed herein, dated the 4th day of March, A. D. 1916.

10. Petition for appeal filed herein March the 23d, A. D. 1916.

11. Assignment of errors filed herein March the 23d, A. D. 1916.

12. Order granting and allowing appeal filed March the 23d, A. D. 1916.

13. The transcript of the proceedings had and taken before the Honorable Charles F. Clemons, Judge of said Court, on Saturday, March the 4th, A. D. 1916, including the shorthand notes taken by the official stenographer of said court so certified by him on the 13th of March, 1916.

14. The citation herein issued and filed March 23d, 1916.

15. The minutes of the clerk of said court containing all entries, memorandums and other matters in the above-entitled cause and proceedings.

16. This praecipe for transcript. The said transcript to be prepared as required by law and the rules of this Court and the rules of the United States

Circuit Court of Appeals for the Ninth Judicial Circuit, and filed in the office of the clerk of said Circuit Court of Appeals at San Franscisco before April 23d, A. D. 1916.

Dated at Honolulu, District of Hawaii the 23d day of March, A. D. 1916.

(Sgd.) GEO. A. DAVIS, [71]

(Sgd.) WILLIAM T. RAWLINS,

(Sgd.) CHARLES S. DAVIS,

Attorneys and Counsel for the Petitioner.

[Endorsed]: No. 94. (Title of Court and Cause.) Praeclipe for Transcript. Filed Mar. 23, 1916. George R. Clark, Clerk. By (Sgd.) Wm. L. Rosa, Deputy Clerk. [72]

In the United States District Court in and for the District and Territory of Hawaii.

No. 94.

In the Matter of the Application of TOKU SAKAI
for a Writ of Habeas Corpus.

**Certificate of Clerk U. S. District Court to Transcript
of Record.**

United States of America,
District of Hawaii,—ss.

I, George R. Clark, Clerk of the District Court of the United States for the District of Hawaii, do hereby certify that the foregoing pages, numbered from 1 to 73, inclusive, to be a true and complete transcript of the record of proceedings had in said court in the matter of the application of Toku Sakai

for a Writ of Habeas Corpus, as the same remains of record and on file in my office, and I further certify that I hereto annex the original citation on appeal and order extending time to transmit record on appeal in said cause.

I further certify that the costs of the foregoing
(G. R. C.)

transcript of record is \$18.40, and that said amount has been paid by appellant.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court this 29th day of April, A. D. 1916.

[Seal] GEORGE R. CLARK,
Clerk U. S. District Court, Territory of Hawaii.

[73]

[Endorsed]: No. 2794. United States Circuit Court of Appeals for the Ninth Circuit. Toku Saki, Appellant, vs. The United States of America, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the Territory of Hawaii.

Filed May 9, 1916.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit. [74]

By Paul P. O'Brien,
Deputy Clerk.